


Honorable Mike K. Nakagawa
United States Bankruptcy Judge



Entered on Docket
August 12, 2020

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

RED ROSE, INC.,

- ☐ Affects Beachhead Roofing and Supply, Inc.
- ☐ Affects California Equipment Leasing Association, Inc.
- ☐ Affects Fences 4 America, Inc.
- ☐ Affects James Petersen Industries, Inc.
- ☒ Affects PD Solar, Inc.
- ☐ Affects Petersen Roofing and Solar LLC
- ☒ Affects Petersen-Dean, Inc.
- ☐ Affects PetersenDean Hawaii LLC
- ☐ Affects PetersenDean Roofing and Solar Systems, Inc.
- ☐ Affects PetersenDean Texas, Inc.
- ☐ Affects Red Rose, Inc.
- ☐ Affects Roofs 4 America, Inc.
- ☐ Affects Solar 4 America, Inc.
- ☐ Affects Sonoma Roofing Services, Inc.

Case No. BK-20-12814-mkn

Jointly Administered with

Case No. BK-S-20-12815-mkn
Case No. BK-S-20-12816-mkn
Case No. BK-S-20-12818-mkn
Case No. BK-S-20-12819-mkn
Case No. BK-S-20-12820-mkn
Case No. BK-S-20-12821-mkn
Case No. BK-S-20-12822-mkn
Case No. BK-S-20-12823-mkn
Case No. BK-S-20-12824-mkn
Case No. BK-S-20-12825-mkn
Case No. BK-S-20-12826-mkn
Case No. BK-S-20-12827-mkn
Case No. BK-S-20-12829-mkn
Case No. BK-S-20-12831-mkn
Case No. BK-S-20-12833-mkn

Chapter 11

- ☐ Affects TD Venture Fund, LLC
☐ Affects Tri-Valley Supply, Inc.
☐ Affects All Debtors

ORDER APPROVING STIPULATION TO GRANT CREDITOR SOLARWORLD AMERICAS, INC. RELIEF FROM THE AUTOMATIC STAY

The Court having considered the *Stipulation to Grant Creditor SolarWorld Americas, Inc. Relief from the Automatic Stay* [ECF No. 693] (the “Stipulation”) entered into by and between SolarWorld Americas, Inc. and Debtors Petersen-Dean, Inc. and PD Solar, Inc. and finding that the relief requested in the Stipulation is appropriate and that good and sufficient cause exists to grant such relief,

IT IS HEREBY ORDERED that the Stipulation attached hereto as Exhibit A is approved;

IT IS FURTHER ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order; and

IT IS FURTHER ORDERED that pursuant to Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, the 14-day stay of this Order is waived, and it shall be effective immediately upon entry.

IT IS SO ORDERED

Submitted by:

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EXHIBIT A

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Case No. BK-S-20-12829-mkn
Case No. BK-S-20-12831-mkn
Case No. BK-S-20-12833-mkn

Chapter 11

**STIPULATION TO GRANT CREDITOR SOLARWORLD AMERICAS, INC. RELIEF
FROM THE AUTOMATIC STAY**

SolarWorld Americas, Inc. ("SolarWorld"), by and through its undersigned counsel, and Debtors Petersen-Dean, Inc. ("PDI") and PD Solar, Inc. ("PDS" and together with PDI, "Debtors"),

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1 by and through their undersigned counsel, hereby enter into this *Stipulation to Grant Creditor*
2 *SolarWorld Americas, Inc. Relief from the Automatic Stay* (the “Stipulation”) and, after negotiating
3 in good faith, hereby represent and agree as follows:

4 A. On June 8, 2017, SolarWorld filed a complaint against PDI and PDS in the United
5 States District Court, District of Oregon (the “Oregon Federal Case”) in which SolarWorld alleged
6 that PDS failed to pay SolarWorld \$8,247,184.89 for solar panel products PDS purchased from
7 SolarWorld and subsequently sold to its customers. SolarWorld also alleged that PDI was liable to
8 SolarWorld under a Guaranty Agreement.

9 B. PDI and PDS filed a motion in the Oregon Federal Case to compel arbitration and
10 dismiss the proceedings, and contemporaneously filed a demand for arbitration against SolarWorld.
11 Thereafter, the parties agreed to arbitrate their entire dispute before Federal Arbitration Inc.
12 (“FedArb”), with SolarWorld voluntarily dismissing the Oregon Federal Case and, on August 28,
13 2017, filing an arbitration demand before FedArb, seeking substantially the same relief as in the
14 Oregon Federal Case. PDS and PDI filed an answer and counterclaims against SolarWorld, denying
15 that they owed SolarWorld any sums and seeking damages in excess of \$100 million from
16 SolarWorld for allegedly defective and hazardous products sold by SolarWorld.

17 C. On December 7, 2017, PDI filed a complaint against SolarWorld in the circuit court
18 of Alameda County, California, seeking a ruling that it had no liability to SolarWorld. SolarWorld
19 removed PDI’s newly filed California state court case to the United States District Court for the
20 Northern District of California (the “District Court”) and moved to require PDI to arbitrate; PDI in
21 turn moved to remand the case to state court. On March 5, 2018, after briefing and a hearing on the
22 pending motions, District Court Judge William H. Orrick entered an order denying the remand
23 motion and ordering the parties to arbitrate their dispute.

24 D. After more than a year of discovery and extensive motion practice, the parties
25 conducted a comprehensive four-day arbitration hearing before retired U.S. District Court Judge
26 Gary A. Feess in Palo Alto, California from September 23, 2019 through September 26, 2019.

27 E. On January 27, 2020, Judge Feess issued a 78-page partial arbitration award (the
28 “Partial Final Award”) in which he found, among other things, that SolarWorld prevailed on its

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1 breach of contract claims against PDS in the amount of “\$8,268,023.95 plus interest at the contract
2 rate through the date of this award” and that PDI had guaranteed payment of certain amounts PDS
3 owed to SolarWorld.

4 F. On May 4, 2020, Judge Feess issued his final arbitration award (the “Final Award”),
5 which incorporated his prior Partial Final Award and found, among other things, that SolarWorld
6 was entitled to attorneys’ fees, costs, and pre-judgment interest on its successful breach of contract
7 claims against PDS and awarded a total judgment against PDS in the amount of \$11,764,747.48.
8 Judge Feess also held in the Final Award that SolarWorld had prevailed on its guaranty claim against
9 PDI and that PDI owed SolarWorld \$1,433,232.67 for PDS obligations that PDI had guaranteed.

10 G. On May 5, 2020, SolarWorld filed its Petition to Confirm the Arbitration Award in
11 the California Federal Case, which PDI and PDS opposed. During a hearing on June 10, 2020, Judge
12 Orrick stated his intent to enter judgment confirming the Final Award. Prior to the entry of such
13 judgment, however, PDI and PDS filed their chapter 11 bankruptcy petitions on June 11, 2020.

14 H. SolarWorld now seeks relief from the automatic stay for the purpose of obtaining a
15 judgment of the District Court confirming the Final Award.

16 **NOW, THEREFORE, IT IS HEREBY AGREED AND STIPULATED THAT:**

17 1. The automatic stay imposed under section 362(a) of the Bankruptcy Code shall be
18 terminated, effective immediately upon the entry of an order approving this Stipulation, to permit
19 SolarWorld to take such actions as are necessary to seek and obtain a judgment of the District Court
20 confirming the Final Award.

21 2. Following the entry by the District Court of a judgment confirming the Final Award,
22 SolarWorld shall take no action to enforce such judgment outside of this bankruptcy case without
23 first obtaining further relief from the automatic stay for so long as the automatic stay remains in
24 effect.

25 3. Other than as stated herein, SolarWorld, PDS, and PDI reserve all of their respective
26 rights, claims, and defenses.

27 4. This Court shall retain jurisdiction to interpret and enforce the provisions of this
28 Stipulation.

1 5. Pursuant to Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, the 14-
2 day stay of this Stipulated Order is waived, and this Stipulated Order is effective immediately upon
3 entry.

4 Dated: August 12, 2020

 Dated: August 12, 2020

5 **FOX ROTHSCHILD LLP**

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6 /s/ Lynnel M. Reyes, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2020, I electronically transmitted the foregoing STIPULATION TO GRANT CREDITOR SOLARWORLD AMERICAS, INC. RELIEF FROM THE AUTOMATIC STAY to the Office of the Clerk of the Bankruptcy Court, using the CM/ECF System, for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants listed for this matter.

By: /s/ Bart K. Larsen, Esq.

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